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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/461,778

12/15/1999

ALBERT H. TADDIKEN

49581-P020US

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11/22/2004

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EXAMINER

ODLAND, DAVID E

ART UNIT

PAPER NUMBER

2662

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/461,778

Applicant(s)

TADDIKEN, ALBERT H.

Examiner

David Odland

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-48.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
JOHN PEZZLO  
PRIMARY EXAMINER

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Continuation of Part 3: The arguments regarding all 35 U.S.C. 112 second paragraph rejections of claims 10,11,16,19-21,22,23,33,18 and 35-38 are persuasive and although this amendment is not being entered, if it were entered these rejections would be withdrawn.

Continuation of part 5c: the Applicant's arguments are not persuasive.

On page 13 regarding claims 17 and 34 and on page 14 regarding the rejection of claim 1, the Applicant argues that Knutson does not teach an 'acquisition timer' which is described in the applicant's specification as being a "time to lock on to the desired frequency". The Examiner respectfully disagrees. This feature upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Knutson clearly states that "Each handset powers on its transceiver during its respective data and audio packet time slots as necessary to synchronize with the base unit." (see abstract of Knutson). This feature of Knutson can be considered 'acquisition time', when given a reasonably broad interpretation.

On page 15 regarding the rejection of claim 46, the Applicant argues that neither Beveridge or Knutson teach of receiving one signal in place of another. The Examiner respectfully disagrees. Beveridge teaches receiving power from the cable head-end through the cable connection when local AC power is lost at the set-top box (see abstract, figure 3 and claim 1). In a reasonably broad interpretation of a 'signal', the AC power can be considered a 'CW signal' and thus the limitations of the claim are met by the Beveridge reference. Further, the Applicant suggests that using the power supplied by the cable company would burn out the tuner. The

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Examiner respectfully disagrees. The Beveridge system uses a trickle circuit to receive the power signal along with the regular CATV signals at the tuner. This trickle circuit would prevent the circuit from burning out.

Note, although this amendment is not being entered, upon the filing of an Appeal Brief or RCE, the amendment will be entered.